

A nonprofit trade association of manufacturers whose principal activity is the promotion of its members' products under the association's registered trademark does not qualify for exemption under section 501(c)(6) of the Code.

The Internal Revenue Service has been asked whether the organization described below qualifies for exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code of 1954.

The organization is a nonprofit trade association of manufacturers in a particular line of business. The association establishes minimum quality standards for its members' products. These products are then sold under the association's registered trademark name. The association's principal activity is the promotion of the trademarked products through various advertising media. The advertising extols the superior quality of the trademarked products and makes no mention of comparable non-trademarked products.

Membership in the association is open to all manufacturers in the particular line of business, but a significant number of manufacturers have chosen not to join. Only members are permitted to use this association's trademark even though nonmembers' products may meet the association's quality standards.

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations defines a business league as an association of persons having some common business interest. The activities of the association must be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

The trademark is promoted by the organization in a way that is intended to give the members of the association a competitive advantage over others in the same industry by extolling the superior quality of the trademarked products. Thus, it is held that the trademark promotion is not directed to the improvement of business conditions of the industry as a whole but is the performance of particular services for members.

Accordingly, this organization is not exempt from Federal income tax under section 501(c)(6) of the Code.

This case is distinguishable from *American Plywood Association v. United States*, 267 F.Supp. 830 (1967). In that case the advertising of the association trademark was found to be

of minor importance and only an incidental part of the advertising that extolled the advantages of the industry product in general.